

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9803 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and

MR.JUSTICE D.C.SRIVASTAVA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT SHIP TRADING CORPN

Versus

UNION OF INDIA

Appearance:

MR PARESH M DAVE for Petitioners
MR AKSHAY H MEHTA for Respondent No. 1
MR ASIM J PANDYA for Respondent No. 2

CORAM : MR.JUSTICE J.N.BHATT and
MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 21/12/1999

ORAL JUDGEMENT (Per: J.N.Bhatt, J.)

#. Rule. Mr. Akshay H. Mehta and Mr. Ashim Pandya waive service on behalf of respondent nos. 1 & 2 respectively. On behalf of the respondent authority, Mr. Pandya very fairly and frankly made a statement that reply to the show cause notice sent by RPAD by the petitioner-Company had been received as per the record and also some notes were to be made out of the reply by the Assistant Commissioner. However, it escaped notice inadvertently when the impugned order came to be recorded. This is precisely the case of the petitioner that the impugned order is suffering from the vice of non application of mind and non consideration of the important points raised in that reply and thereby it is contended that the principles of natural justice have been infringed. In view of the aforesaid facts and circumstances, the only course which is now special and simple is to direct respondent no.2 - Commissioner of Customs, Kandla to reconsider the entire matter afresh including the fresh copy of reply to show cause notice that may be filed within 15 days from today and pass appropriate order in accordance with law considering all the relevant facts and circumstances. Obviously, the impugned order would not stand and therefore, it shall stand quashed and set aside. Respondent no.2 is directed to dispose of the matter afresh within a period of 4 months from the date of receipt of the copy of reply in accordance with law after giving opportunity of hearing to the concerned parties. Rule is made absolute accordingly with no order as to costs.

(J.N. BHATT,J.) (D.C.SRIVASTAVA, J.)

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